BILL NO. S-83-08-19

SPECIAL ORDINANCE NO. S-166-83

AN ORDINANCE approving a Contract by the City of Fort Wayne by and through its Board of Public Works and Bercot, Inc., for Res. #389-83, Phase III, Sewer Repair Project - Repair of 15" Combination Sewer in Alley North of Burgess and East of St. Mary's Ave., DSR 047077.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. The annexed Contract, made a part hereof, by the City of Fort Wayne by and through its Board of Public Works and Bercot, Inc., for Res. #389-83, Phase III, Sewer Repair Project - Repair of 15" Combination Sewer in alley North of Burgess and East of St. Mary's Ave., DSR 047077, is hereby ratified, and affirmed and approved in all respects. The work under said Contract requires:

> Repair of a 15 inch in diameter sewer line located in the alley North of Burgess Street and East of St. Mary's Avenue within Papes Third Addition. This is a Federal Emergency Management Agency Project DSR #047077;

the Contract price is Nine Thousand Six Hundred Fifty and No/100 Dollars ($9,650.00).

SECTION 2. Prior Approval was received from Council with respect to this Contract on August 2, 1983. Two (2) copies of the Contract attached hereto are on file with the City Clerk, and are available for public inspection.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Victure Sarnecki
Councilmember

APPROVED AS TO FORM
AND LEGALITY

Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Scruggs, seconded by GiaQuinta, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on ____, the ____ day of ____, 19__, at ____ o'clock ____.M.,E.S.T.

DATE: 8-9-83 Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by Scruggs, seconded by Talarico, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
SCHMIDT	✓				
SCHOMBURG	✓				
SCRUGGS	✓				
STIER	✓				
TALARICO	✓				

DATE: 8-23-83 Sandra E. Kennedy
- CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP)~~ ~~(GENERAL)~~ ~~(ANNEXATION)~~ (SPECIAL) ~~(APPROPRIATION)~~ ORDINANCE ~~(RESOLUTION)~~ NO. S-166-83 on the 23rd day of August, 19 83.

ATTEST: Sandra E. Kennedy
CITY CLERK

(SEAL) Ray A. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 24th day of August, 19 83, at the hour of 11:30 o'clock A.M.,E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 26th day of August 19 83, at the hour of 2:00 o'clock P.M.,E.S.T.

WIN MOSES, JR. - MAYOR

73-123-24
7/27/83

CONTRACT NO. 389-1983
PHASE III

THIS CONTRACT made and entered into in triplicate this 27 day of July, 1983, by and between BERCOT INC., herein called CONTRACTOR, and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor, and the Board of Public Works herein called OWNER,

WITNESSETH that the Contractor and the Owner for the considerations hereinafter named, agrees as follows:

ARTICLE 1. SCOPE OF WORK

Contractor shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the installation of the following:

PHASE III - REPAIR OF 15" COMBINATION SEWER IN ALLEY
NORTH OF BURGESS AND EAST OF ST. MARY'S AVENUE, DSR-047077

Said sewer is 15" in diameter with all appurtenances to be repaired in accordance with the plans, profiles, special provisions and specifications now on file in the Office of the Board of Public Works of said City.

All work done in the making of the aforementioned public imrpovement shall be in accordance with the terms and conditions of the Resolution aforementioned and the plans, profiles, special provisions and specifications now on file in the Office of the Board of Public Works.

The total cost of said Combination Sewer Improvement shall be paid by funds from the Sewer Utility Fund of City Utilities of the City of Fort Wayne, and Federal Disaster Aid Funds,

all according to Fort Wayne Pollution Control Engineering Department Drawing No. SY-11108, Sheets 1-4 and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2. THE CONTRACT SUM

The Owner shall pay Contractor for the performance of the contract the unit price sum of $9,650.00. In event the amount of work is increased or decreased by Owner, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal as follows:

15" RCP Class IV	Seventy-five Dollars and 00/100	75.00
6" Stone #73 (Alley)	Two Dollars and 00/100	2.00
Special Backfill #73	Fifteen Dollars and 00/100	15.00
6" Tap Connections	Two Hundred Dollars and 00/100	200.00

ARTICLE 3. PROGRESS PAYMENTS

The Owner shall make payments on account of the contract as provided herein, as follows:

Monthly progress payments will be made by Owner upon submission of a statement of quantities of work completed and/or materials supplied to the job site as of the end of each month. On or about the 15th day of the following month, ninety (90%) percent of the value of the work performed up to the first day of that month (based on the contract price of labor and materials incorporated in the work) and as estimated by the Contractor and approved or revised by the Engineering Department of the Owner, less the aggregate of previous payments, will be paid by Owner to the Contractor.

ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the Contractor that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Engineering Department of the Owner to promptly make such inspection. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted thereupon, and the entire balance of the Contract sum shall be due and payable to the Contractor; provided only that Contractor shall first furnish Owner, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid.

ARTICLE 5. WORKMEN'S COMPENSATION ACT

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Statutes of State of Indiana and Ordinances of City of Fort Wayne.

Any judgment rendered against the City of Fort Wayne in any suits for damages for injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of Contractor, or its agents, employees or workmen and that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation acts of the State of Indiana, now or hereafter in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said Contractor, shall be conclusive against Contractor as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that Contractor indemnify and hold harmless City in the premises.

ARTICLE 6. NONDISCRIMINATION OF LABOR

The Contractor further agrees to be bounded by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978.

ARTICLE 7. PREVAILING WAGE SCALE

The Contractor agrees to pay and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the provisions of Statutes of Indiana and Ordinances of City of Fort Wayne.

ARTICLE 8. COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

A. Advertisement for Bids, for Contract No. 389-1983.
B. Instructions to Bidders for Contract No. 389-1983.
C. Contractor's Proposal Dated July 13, 1983.
D. Fort Wayne Water Pollution Control Engineering Department Construction Drawing No. SY-11108.
E. General Specifications and Conditions, detailed specifications, construction standards for the installation of storm and sanitary sewers adopted July 23, 1980 and addendums thereof of the City of Fort Wayne's Water Pollution Control Engineering Department.
F. Special Provisions.
G. Workmen's Compensation Act Statutes of State of Indiana and Ordinances of City of Fort Wayne.
H. Non Discrimination of labor General Ordinance No. G-34-78 (as amended).
I. Prevailing wage scale.
J. Performance Bond.
K. Labor and Material Payment Bond.
L. Comprehensive Liability Insurance Coverage.
M. Application for Cut Permit.
N. Escrow Agreement (where applicable).
O. Notice of Award.
P. Notice to Proceed.
Q. Change Order.
R. Notice of Final Acceptance.

ARTICLE 9. GUARANTEE OF WORKMANSHIP

The Contractor shall provide upon request of Board of Works a maintenance bond in full amount of the contract that warrants all materials, labor and equipment furnished and work performed for a period of one (1) year from date of final acceptance in writing by the Owner.

ARTICLE 10. INDEMNITY

Contractor shall furnish to owner, within ten (10) days of the date hereof a certificate from an insuror acceptable to owner showing personal injury and property damage. Insurance inforce issued in connection with the work to be done under this Contract in accordance with said Specifications of the City of Fort Wayne, Division I, Section 7.

ARTICLE 11. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the Contractor and the Owner under the provisions of this Contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Pollution Control Department, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases or the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 12. COMPLETION DATE

The Contractor agrees to complete the work specified in the within contract in 90 consecutive calendar days after having been ordered by the Owner to commence work under this contract.

ARTICLE 13. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the Owner by the Mayor and Board of Public Works of the City of Fort Wayne, Indiana, shall not be binding upon the Owner unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

BERCOT INC.

BY: Steve Bercot
Steve Bercot, President

BY: W. Dean Bercot
W. DEAN BERCOT, Secretary -TREASURER

CITY OF FORT WAYNE, INDIANA

BY: Win Moses
Win Moses, Jr., Mayor

ATTEST:

Helen V. Gochenour
Helen V. Gochenour, Clerk

BOARD OF PUBLIC WORKS

Stephen A. Bailey, Chairman

Betty R. Collins
Betty Collins, Member

APPROVED AS TO FORM AND LEGALITY:

R. J. Snouffer
ASSOCIATE CITY ATTORNEY

Approved by the Common Council of the City of Fort Wayne on _____ day of _____, 1983.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that

BERCOT INC.
(Name of Contractor)

6015 Huguenard Road, Fort Wayne, IN 46808
(Address of Contractor)

a Corporation hereinafter called
(Corporation, Partnership, or Individual)

Principal, and THE WESTERN CASUALTY AND SURETY COMPANY
(Name of Surety)

Fort Scott, Kansas
(Address of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held firmly bound unto the City of Fort Wayne, Indiana, an Indiana Municipal Corporation in the penal sum of Nine Thousand Six Hundred Fifty Dollars and no/100 ($9,650.00) (value of work) for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by those present.

The condition of the foregoing obligation is such that:

WHEREAS, the Principal entered into certain contract with the City, dated the 27 day of July, 1983, for construction of:

PHASE III - REPAIR OF 15" COMBINATION SEWER IN ALLEY
NORTH OF BURGESS AND EAST OF ST. MARY'S AVENUE

all according to Fort Wayne Water Pollution Control Engineering Department Drawing No. SY-11108 Sheets 1-4 and special provisions and according to the City of Fort Wayne's Specifications and Standard Drawings and Addendums, adopted July 23, 1980 and

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alternation, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompaning the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the City and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in three (3) (number) counterparts, each one of which shall be deemed an original, this 21st day of July, 1983.

ATTEST:

(Principal) Secretary

[SEAL]

Lois E Colone
(Witness as to Principal)

6015 Huguenard Rd
(Address)

Ft Wayne, In 46818

BERCOT, INC.
6015 HUGUENARD ROAD
FORT WAYNE, INDIANA 46809
(Principal)

BY: Steve Bercot [S]
President

6015 Huguenard Road
(Address)

Fort Wayne, Indiana 46808

THE WESTERN CASUALTY AND SURETY COMPANY
Surety

ATTEST:

(Surety) Secretary Jerry C. Waak

[SEAL]

Jennifer J. Luprecht
Witness as to Surety

6314 Hidfield Drive
(Address)

Fort Wayne, Indiana 46815

By Donald F Campbell
Attorney-in-Fact
Donald F. Campbell

4233 East State Boulevard
(Address)

Fort Wayne, Indiana 46815

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

POWER OF ATTORNEY

The Western Casualty and Surety Company

HOME OFFICE — FORT SCOTT, KANSAS

KNOW ALL MEN BY THESE PRESENTS: That THE WESTERN CASUALTY AND SURETY COMPANY, of Fort Scott, Kansas, a corporation of the State of Kansas, having its principal office in the city of Fort Scott, Kansas, pursuant to the following Bylaw, which was adopted by the Stockholders of the said Company on December 2, 1953, to-wit:

"Section 27. RESIDENT OFFICERS AND ATTORNEYS-IN-FACT. The president, any vice president or the secretary shall have power and authority to appoint resident vice presidents, resident assistant secretaries and attorneys-in-fact, and to give such appointees full power and authority to make, execute and deliver in the name and on behalf of the corporation, bonds, recognizances, contracts of indemnity and other undertakings and writings of obligatory nature, and to affix thereto the corporate seal of the corporation. The president, any vice president or the secretary shall also have power at any time to remove and revoke the authority of any such appointee."
does hereby nominate, constitute and appoint

H. Stanley Huff,Jr. or Donald F. Campbell
of Fort Wayne, Indiana

its true and lawful agent(s) and Attorney(s)-in-Fact, to make, execute, seal and deliver for and on its behalf, as Surety, and as its act and deed:

Any and all bonds and undertakings.

Provided, No authority is extended for
the execution of Open Penalty Bonds.

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its offices in Fort Scott, State of Kansas, in their own proper persons.

The following Resolution was adopted at the Quarterly Meeting of the Board of Directors of The Western Casualty and Surety Company, held on the 10th day of November, 1970:

"RESOLVED, That the signatures of officers of the Company and the seal of the Company may be affixed by facsimile to any Power of Attorney executed in accordance with Section 27 of the Company Bylaws; and that any such Power of Attorney bearing such facsimile signatures, including the facsimile signature of a certifying Assistant Secretary, and facsimile seal shall be valid and binding upon the Company with respect to any bond, undertaking or contract of suretyship to which it is attached."

All authority hereby conferred shall remain in full force and effect until terminated by the Company.

IN WITNESS WHEREOF, THE WESTERN CASUALTY AND SURETY COMPANY has caused these presents to be signed by its Vice-President, and its corporate seal to be hereunto affixed this 19th day of October, 19 82

THE WESTERN CASUALTY AND SURETY COMPANY

By J. F. Heim
Vice President

STATE OF KANSAS
COUNTY OF BOURBON ss

On this 19th day of October, A. D., 19 82, before the subscriber, a Notary Public in the State of Kansas in and for the County of Bourbon, duly commissioned and qualified, came J. F. Heim, Vice President of THE WESTERN CASUALTY AND SURETY COMPANY, of Fort Scott, Kansas to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposeth and saith, that he is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the corporate seal of said Company, and the said corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Company, and that Bylaw, Section 27, adopted by the Stockholders of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Fort Scott, the day and year first above written.

D. R. Shepard
Notary Public.

My appointment expires September 5, 1984

I, G. R. Cantrell, Assistant Secretary of THE WESTERN CASUALTY AND SURETY COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a power of attorney executed by said THE WESTERN CASUALTY AND SURETY COMPANY, which is still in full force and effect.

IN WITNESS WHEREOF, I have signed this certificate at Fort Scott, Kansas, this 21st day of July, 19 83.

G. R. Cantrell
Assistant Secretary.

FORM FS 5890-R6

POWER OF ATTORNEY

The Western Casualty and Surety Company

HOME OFFICE — FORT SCOTT, KANSAS

KNOW ALL MEN BY THESE PRESENTS: That THE WESTERN CASUALTY AND SURETY COMPANY, of Fort Scott, Kansas, a corporation of the State of Kansas, having its principal office in the city of Fort Scott, Kansas, pursuant to the following Bylaw, which was adopted by the Stockholders of the said Company on December 2, 1953, to-wit:

"Section 27. RESIDENT OFFICERS AND ATTORNEYS-IN-FACT. The president, any vice president or the secretary shall have power and authority to appoint resident vice presidents, resident assistant secretaries and attorneys-in-fact, and to give such appointees full power and authority to make, execute and deliver in the name and on behalf of the corporation, bonds, recognizances, contracts of indemnity and other undertakings and writings of obligatory nature, and to affix thereto the corporate seal of the corporation. The president, any vice president or the secretary shall also have power at any time to remove and revoke the authority of any such appointee."
does hereby nominate, constitute and appoint

Jerry C. Waak of Fort Wayne, Indiana

its true and lawful agent(s) and Attorney(s)-in-Fact, to make, execute, seal and deliver for and on its behalf, as Surety, and as its act and deed:

Any and all bonds and undertakings.

Provided, No authority is extended for the execution of Open Penalty Bonds.

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its offices in Fort Scott, State of Kansas, in their own proper persons.

The following Resolution was adopted at the Quarterly Meeting of the Board of Directors of The Western Casualty and Surety Company, held on the 10th day of November, 1970:

"RESOLVED, That the signatures of officers of the Company and the seal of the Company may be affixed by facsimile to any Power of Attorney executed in accordance with Section 27 of the Company Bylaws; and that any such Power of Attorney bearing such facsimile signatures, including the facsimile signature of a certifying Assistant Secretary, and facsimile seal shall be valid and binding upon the Company with respect to any bond, undertaking or contract of suretyship to which it is attached."

All authority hereby conferred shall remain in full force and effect until terminated by the Company.

IN WITNESS WHEREOF, THE WESTERN CASUALTY AND SURETY COMPANY has caused these presents to be signed by its Vice-President, and its corporate seal to be hereunto affixed this 17th day of October, 1978

THE WESTERN CASUALTY AND SURETY COMPANY

By V. J. O'Gorek
Vice President

STATE OF KANSAS
COUNTY OF BOURBON ss

On this 17th day of October, A. D., 19 78, before the subscriber, a Notary Public in the State of Kansas in and for the County of Bourbon, duly commissioned and qualified, came V. J. O'Gorek, Vice President of THE WESTERN CASUALTY AND SURETY COMPANY, of Fort Scott, Kansas to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposeth and saith, that he is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the corporate seal of said Company, and the said corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Company, and that Bylaw, Section 27, adopted by the Stockholders of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Fort Scott, the day and year first above written.

D. R. Shepard
Notary Public.

My appointment expires September 5, 1980

I, G. R. Cantrell, Assistant Secretary of THE WESTERN CASUALTY AND SURETY COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a power of attorney executed by said THE WESTERN CASUALTY AND SURETY COMPANY, which is still in full force and effect.

IN WITNESS WHEREOF, I have signed this certificate at Fort Scott, Kansas, this 21st day of July, 19 83.

G. R. Cantrell
Assistant Secretary.

Form FS 5890-R4

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

BERCOT INC.
(Name of Contractor)

6015 HUGUENARD ROAD, FORT WAYNE, IN 46808
(Address of Contractor)

a Corporation, hereinafter called Principal,
(Corporation, Partnership or Individual)

and THE WESTERN CASUALTY AND SURETY COMPANY
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, and Indiana Municipal Corporation in the penal sum of Nine Thousand Six Hundred Fifty Dollars and no/100 ($9,650.00) (value of work) for the payment whereof well and truely to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 27 day of July 1983, for the construction of:

PHASE III - REPAIR OF 15" COMBINATION SEWER IN ALLEY
NORTH OF BURGESS AND EAST OF ST. MARY'S AVENUE

all according to Fort Wayne Water Pollution Control Engineering Department Drawing No. SY-11108 Sheets 1-4 and special provisions, and according to the City of Fort Wayne's Specifications and Standard Drawings and Addendums, adopted July 23, 1980.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery,

equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed three (3) (number) counterparts, each one of which shall be deemed an original, this 21st day of July, 1983.

ATTEST:

(Principal) Secretary

[SEAL]

BERCOT, INC.
6015 HUGUENARD ROAD
FORT WAYNE, INDIANA 46808
Principal

By [S]
President

6015 Huguenard Road
(Address)

Fort Wayne, Indiana 46808

Witness as to Principal

6015 Huguenard Rd
(Address)

Ft Wayne In 46818

THE WESTERN CASUALTY AND SURETY COMPANY
Surety

By
Attorney-in-Fact
Donald F. Campbell

ATTEST:

(Surety) Secretary Jerry C. Waak

[SEAL]

Witness as to Surety

6314 Midfield Drive
(Address)

Fort Wayne, Indiana 46815

4233 East State Boulevard
(Address)

Fort Wayne, Indiana 46815

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

POWER OF ATTORNEY

The Western Casualty and Surety Company

HOME OFFICE — FORT SCOTT, KANSAS

KNOW ALL MEN BY THESE PRESENTS: That THE WESTERN CASUALTY AND SURETY COMPANY, of Fort Scott, Kansas, a corporation of the State of Kansas, having its principal office in the city of Fort Scott, Kansas, pursuant to the following Bylaw, which was adopted by the Stockholders of the said Company on December 2, 1953, to-wit:

"Section 27. RESIDENT OFFICERS AND ATTORNEYS-IN-FACT. The president, any vice president or the secretary shall have power and authority to appoint resident vice presidents, resident assistant secretaries and attorneys-in-fact, and to give such appointees full power and authority to make, execute and deliver in the name and on behalf of the corporation, bonds, recognizances, contracts of indemnity and other undertakings and writings of obligatory nature, and to affix thereto the corporate seal of the corporation. The president, any vice president or the secretary shall also have power at any time to remove and revoke the authority of any such appointee."
does hereby nominate, constitute and appoint

H. Stanley Huff,Jr. or Donald F. Campbell
of Fort Wayne, Indiana

its true and lawful agent(s) and Attorney(s)-in-Fact, to make, execute, seal and deliver for and on its behalf, as Surety, and as its act and deed:

Any and all bonds and undertakings.

Provided, No authority is extended for
the execution of Open Penalty Bonds.

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its offices in Fort Scott, State of Kansas, in their own proper persons.

The following Resolution was adopted at the Quarterly Meeting of the Board of Directors of The Western Casualty and Surety Company, held on the 10th day of November, 1970:

"RESOLVED, That the signatures of officers of the Company and the seal of the Company may be affixed by facsimile to any Power of Attorney executed in accordance with Section 27 of the Company Bylaws; and that any such Power of Attorney bearing such facsimile signatures, including the facsimile signature of a certifying Assistant Secretary, and facsimile seal shall be valid and binding upon the Company with respect to any bond, undertaking or contract of suretyship to which it is attached."

All authority hereby conferred shall remain in full force and effect until terminated by the Company.

IN WITNESS WHEREOF, THE WESTERN CASUALTY AND SURETY COMPANY has caused these presents to be signed by its Vice-President, and its corporate seal to be hereunto affixed this 19th day of October, 19 82

THE WESTERN CASUALTY AND SURETY COMPANY

By J. F. Heim
Vice President

THE WESTERN CASUALTY AND SURETY COMPANY CORPORATE SEAL Fort Scott, Kans.

STATE OF KANSAS
COUNTY OF BOURBON ss

On this 19th day of October, A. D., 19 82, before the subscriber, a Notary Public in the State of Kansas in and for the County of Bourbon, duly commissioned and qualified, came J. F. Heim, Vice President of THE WESTERN CASUALTY AND SURETY COMPANY, of Fort Scott, Kansas to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposeth and saith, that he is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the corporate seal of said Company, and the said corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Company, and that Bylaw, Section 27, adopted by the Stockholders of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Fort Scott, the day and year first above written.

D. R. SHEPARD NOTARY PUBLIC BOURBON COUNTY, KANSAS

My appointment expires September 5, 1984

D R Shepard
Notary Public.

I, G. R. Cantrell, Assistant Secretary of THE WESTERN CASUALTY AND SURETY COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a power of attorney executed by said THE WESTERN CASUALTY AND SURETY COMPANY, which is still in full force and effect.

IN WITNESS WHEREOF, I have signed this certificate at Fort Scott, Kansas, this 21st day of July, 19 83.

J. R. Cantrell
Assistant Secretary.

THE WESTERN CASUALTY AND SURETY COMPANY CORPORATE SEAL Fort Scott, Kans.

FORM FS 5890-R6

POWER OF ATTORNEY

The Western Casualty and Surety Company

HOME OFFICE—FORT SCOTT, KANSAS

KNOW ALL MEN BY THESE PRESENTS: That THE WESTERN CASUALTY AND SURETY COMPANY, of Fort Scott, Kansas, a corporation of the State of Kansas, having its principal office in the city of Fort Scott, Kansas, pursuant to the following Bylaw, which was adopted by the Stockholders of the said Company on December 2, 1953, to-wit:

"Section 27. RESIDENT OFFICERS AND ATTORNEYS-IN-FACT. The president, any vice president or the secretary shall have power and authority to appoint resident vice presidents, resident assistant secretaries and attorneys-in-fact, and to give such appointees full power and authority to make, execute and deliver in the name and on behalf of the corporation, bonds, recognizances, contracts of indemnity and other undertakings and writings of obligatory nature, and to affix thereto the corporate seal of the corporation. The president, any vice president or the secretary shall also have power at any time to remove and revoke the authority of any such appointee."
does hereby nominate, constitute and appoint

Jerry C. Waak of Fort Wayne, Indiana

its true and lawful agent(s) and Attorney(s)-in-Fact, to make, execute, seal and deliver for and on its behalf, as Surety, and as its act and deed:

Any and all bonds and undertakings.

Provided, No authority is extended for the execution of Open Penalty Bonds.

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its offices in Fort Scott, State of Kansas, in their own proper persons.

The following Resolution was adopted at the Quarterly Meeting of the Board of Directors of The Western Casualty and Surety Company, held on the 10th day of November, 1970:

"RESOLVED, That the signatures of officers of the Company and the seal of the Company may be affixed by facsimile to any Power of Attorney executed in accordance with Section 27 of the Company Bylaws; and that any such Power of Attorney bearing such facsimile signatures, including the facsimile signature of a certifying Assistant Secretary, and facsimile seal shall be valid and binding upon the Company with respect to any bond, undertaking or contract of suretyship to which it is attached."

All authority hereby conferred shall remain in full force and effect until terminated by the Company.

IN WITNESS WHEREOF, THE WESTERN CASUALTY AND SURETY COMPANY has caused these presents to be signed by its Vice-President, and its corporate seal to be hereunto affixed this 17th day of October, 1978.

THE WESTERN CASUALTY AND SURETY COMPANY

By V. J. O'Gorek
Vice President

STATE OF KANSAS
COUNTY OF BOURBON ss

On this 17th day of October, A. D., 1978, before the subscriber, a Notary Public in the State of Kansas in and for the County of Bourbon, duly commissioned and qualified, came V. J. O'Gorek, Vice President of THE WESTERN CASUALTY AND SURETY COMPANY, of Fort Scott, Kansas to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposeth and saith, that he is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the corporate seal of said Company, and the said corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Company, and that Bylaw, Section 27, adopted by the Stockholders of said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Fort Scott, the day and year first above written.

D R Shepard
Notary Public.

My appointment expires September 5, 1980

D R SHEPARD NOTARY PUBLIC BOURBON COUNTY KANSAS

I, G. R. Cantrell, Assistant Secretary of THE WESTERN CASUALTY AND SURETY COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a power of attorney executed by said THE WESTERN CASUALTY AND SURETY COMPANY, which is still in full force and effect.

IN WITNESS WHEREOF, I have signed this certificate at Fort Scott, Kansas, this 21st day of July, 1983.

G. R. Cantrell
Assistant Secretary.

FORM FS 5890-R4

WAIVER OF RIGHT TO HAVE ESCROW FUNDS DEPOSITED
IN INTEREST BEARING ACCOUNT

THIS AGREEMENT, made this 27 day of July, 1983, by and between BERCOT INC., Contractor, and City of Fort Wayne, Owner;

WITNESSETH:

WHEREAS, Contractor and Owner have entered into the contract dated July 27, 1983 for the construction of sewer repair project, Phase III - Repair of 15" Combination Sewer in Alley North of Burgess and East of St. Mary's Avenue; and

WHEREAS, by the terms of said contract, Owner is entitled to retain portions of the payments due and to become due to the Contractor on account of said work; and

WHEREAS, Contractor has the right to have said funds placed in an interest bearing escrow account; and

WHEREAS, Contractor desires to waive said right and agrees to accept the principal only when due of said funds so retained.

NOW, THEREFORE, Contractor on behalf of himself and all of his subcontractors, workmen and materialmen, does hereby waive his right to have retainage placed in an interest bearing account.

Owner agrees to retain and hold said funds and to pay the same when due without interest thereon.

BERCOT INC.
Contractor
BY: Steve Bercot
President

CITY OF FORT WAYNE
BOARD OF PUBLIC WORKS
BY
BY Billy R. Collins
BY

Contract No. 389-1983 (Phase III)

NOTICE OF AWARD

TO: Bercot Inc.

6015 Huguenard Road

Fort Wayne, IN 46808

PROJECT Description: Sewer Repair Project - Phase III - Repair of 15" Combination Sewer in Alley North of Burgess and East of St. Mary's Avenue,

DSR No. 047077.

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for Bids dated June 24 and July 1, 1983, and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of $9,650.00. (Provisions added here).

You are required by the Information for Bidders to execute the Agreement and furnish the required Contractor's Performance Bond and Payment Bond within ten calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said bonds within ten days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out of the OWNER'S acceptance of your BID as abandoned and as a forfeiture of your Bid Bond. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this _____ day of _____, 1983.

CITY OF FORT WAYNE
Owner

BY _____

TITLE _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged

by BERCOT INC.

this the 20 day

of July 1983

BY _____

Title President

Contract No. 389-1983 (Phase III)

NOTICE TO PROCEED

To: Bercot Inc.
6015 Huguenard Road
Fort Wayne, IN 46808

Date: _____

Project: Sewer Repair Project
Phase III - Repair of 15" Combination Sewer in Alley North of Burgess and East of St. Mary's Avenue
DSR NO. 047077

You are hereby notified to proceed in accordance with your contract dated _____, 1983, on the project and you are to complete the project within 60 consecutive calendar days thereafter.

Therefore, the date for the completion of this project is _____, 1983.

Owner:
BOARD OF PUBLIC WORKS

_____
Stephen A. Bailey, Chairman

_____
Betty R. Collins, Member

_____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by BERCOT INC., this the _____ day of _____, 1983

_____

BY _____

Title _____

Contract No. 389-1983 (Phase III)

BILL NO. S-83-08-19

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN ORDINANCE approving a Contract by the City of Fort Wayne by and through its Board of Public Works and Bercot, Inc., for Res. #389-83, Phase III, Sewer Repair Project - Reapir of 15" Combination Sewer in Alley North of Burgess and East of St. Mary's Ave., DSR 047077

PRIOR APPROVAL RECEIVED 8/2/83

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

VICTURE L. SCRUGGS, CHAIRMAN Victure Scruggs

SAMUEL J. TALARICO, VICE CHAIRMAN Samuel J. Talarico

DONALD J. SCHMIDT

MARK E. GiaQUINTA Mark E. GiaQuinta

PAUL M. BURNS Paul M. Burns

Cor received 8-23 N. Kennedy

6372

Admn. Appr. _____

TITLE OF ORDINANCE Res. 389-83, Phase III, Sewer Repair Project, - Repair of 15" Combination Sewer in alley North of Burgess & E. of St. Mary's Ave., DSR 047077

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

8-83-08-19

SYNOPSIS OF ORDINANCE The contract for Res. 389-83, Phase III, Sewer Repair Project, is for Repair of a 15 inch in diameter sewer line located in the alley North of Burgess Street and East of St. Mary's Avenue within Papes Third Addition.

This is a Federal Emergency Management Agency Project DSR #047077. Bercot, Inc., is the contractor.

PRIOR APPROVAL RECEIVED 8/2/83

EFFECT OF PASSAGE Improved sewer conditions in above area.

EFFECT OF NON-PASSAGE _____

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) $9650.00

ASSIGNED TO COMMITTEE _____